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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/993,745	11/14/2001	Gerald Chip	GT-5400	8255	
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Omnova Solutions Inc.			EXAMINER		
Robert F. Rywalski			THISSELL, JENNIFER I		
175 Ghent Road Fairlawn, OH 44333-3300					
1 airiawii, O11 44333-3300			ART UNIT	PAPER NUMBER	
			3635	3635	
			DATE MAILED: 06/26/2003	DATE MAILED: 06/26/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Commonstration   Commonstration	·						
## Examiner   Art Unit   3835    ## The MAILING DATE of this communication appears on the cover sheet with the correspondence address → P riod for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Exhausting the swallable under the provisions of 37 CFR 1.138(a). In or event, however, may a raply be sinely filed with the Station (With TS from the mining date of this communication.  If NO period for reply is specified above, the manafrum statutory prefer with read statutory minimum of litting (39) days will be considered timely.  If NO period for reply is specified above, the manafrum statutory prefer will be specified before the realized part of the reply with the set of sected part of the reply with the set of sected part of the reply with the set of sected part of the reply with the set of sected part of the reply sected timely.  ### The MAILING DATE OF THIS COMMUNICATION.  Exhausting the specified above, the manafrum statutory prefer will apply and will expire SN (6) MONTHS from the mailing date of this communication.  ### Failists or large within the set or sected part of the reply little from the mailing date of this communication.  ### Pailists or large within the set or sected part of the pailists of the communication.  ### Responsive to communication(s) filed on 14 November 2001.  ### Responsive to communication(s) filed on 14 November 2001.  ### Responsive to communication(s) filed on 14 November 2001.  ### Responsive to communication is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under £x parts Quayle, 1935 C.D. 11, 453 O.G. 213.  ### Responsive to communication is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under £x parts Quayle, 1935 C.D. 11, 453 O.G. 213.  ### Responsive to communication is condition for allowance except for formal matters, prosecution as to the merits i	1 70	Application No.	Applicant(s)				
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THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be autised under the provisions of 37 CPR 1.136(a). In no event, however, may a reply be limely filed after SIX (6) MONTHS from the mailing date of this communication, any retire to estudie or the state of the communication of the state of the communication of the state of the s	The MAILING DATE of this communication app P riod for Reply	ears on the cover sheet with the c	orrespondence address				
2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-15 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are rejected.  7) Claim(s) is/are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some c) None of:  1. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.	<ul> <li>THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>						
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	Attachment(s)						
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) Other:	2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal I					

Application/Control Number: 09/993,745

Art Unit: 3635

## **DETAILED ACTION**

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-10, drawn to a latex binder and sheet, classified in class
   428, subclass 430.
- II. Claims 11-15, drawn to a roofing shingle, classified in class 52, subclass 518.

Inventions I and II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a sheet for purposes other than a roofing shingle, such as for sheets that coat other structures, and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

Application/Control Number: 09/993,745

Art Unit: 3635

examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Larry Meenan on June 23, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I Thissell whose telephone

Application/Control Number: 09/993,745

Art Unit: 3635

number is (703) 306-5750. The examiner can normally be reached Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (703) 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

June 23, 2003

Carl D. Friedman
Supervisory Patent Examiner
Group 3600